

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TYRONE L. GARNER,

Petitioner,

vs.

CRAIG FARWELL, *et al.*,

Respondents.

3:03-cv-00315-ECR-VPC

**ORDER REOPENING CASE**

Petitioner has filed a motion seeking to reopen this habeas corpus case (ECF NO. 68) a motion for appointment of counsel (ECF No. 69) and notice that the motion for reconsideration filed with the Nevada Supreme Court is no longer pending (ECF No. 70).

This action was dismissed without prejudice, and the case closed administratively, pursuant to an Order entered April 21, 2008 (ECF No. 65). The dismissal resulted from petitioner's request for stay order to allow him to return to state court to exhaust his state-court remedies with respect to certain of his grounds for relief. In the Order dismissing the case, the Court indicated that this case is subject to being reopened upon a motion by petitioner. *See id.*

Petitioner's further state-court proceedings have apparently concluded, and petitioner has now returned to this Court seeking to reopen this case. Petitioner requests time to file an amended petition, however, that request shall be denied and the matter shall proceed on the petition already on file in this matter.

Petitioner's motion for counsel shall also be denied. He has proceeded effectively

1 thus far in these proceedings without counsel and the Court finds counsel is not warranted. *Chaney*  
2 *v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*,  
3 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).


4 **IT IS THEREFORE ORDERED** that petitioner's Motion to Lift Stay and  
5 Reopen Proceedings (ECF No. 68) is **GRANTED**.

6 **IT IS FURTHER ORDERED** that the Clerk shall **REOPEN THIS FILE**.

7 **IT IS FURTHER ORDERED** that Respondents shall have **forty-five (45) days**  
8 from entry of this order to answer or otherwise respond to the petition found in the court record at  
9 docket #39.

10 **IT IS FURTHER ORDERED** that petitioner's Motion for Appointment of Counsel  
11 (ECF No. 69) is **DENIED**.

12 Dated this 2<sup>nd</sup> day of May, 2011.

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15 UNITED STATES DISTRICT JUDGE  
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